

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY CGSA, INC.	)	
FOR ISSUANCE OF A CERTIFICATE OF	)	
PUBLIC CONVENIENCE AND NECESSITY	)	
TO CONSTRUCT AN ADDITIONAL CELL	)	
SITE IN LEXINGTON, KENTUCKY FOR	)	CASE NO.
THE PROVISION OF DOMESTIC PUBLIC	)	97-072
CELLULAR RADIO TELECOMMUNICATIONS	)	
SERVICE TO THE PUBLIC IN FAYETTE	)	
COUNTY, KENTUCKY AND THE LEXINGTON	)	
MSA	)	

O R D E R

This matter arising upon the motion of Keith Gill, Timothy R. Mullins, Robert and Billi Docherty, Jeff and Michele Rhinehimer, Robin and Hunter Ayers, Natalie Messner, Robert C. Utterback, Theresa L. Foley, John Langendorf, Arthur and Pam Covert, Brian and Deana Hurt, Vonya Churchill, Coye Still, Shawn Smith, Martha Saylor, Vonda Alami, Jessica Hayes, and the Resident at 1413 Gatlinburg Court (hereinafter referred to collectively as "Petitioners"), filed October 17, 1997, for full intervention, and it appearing to the Commission that Petitioners have a special interest which is not otherwise adequately represented, and that such intervention is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings, and this Commission being otherwise sufficiently advised,

IT IS HEREBY ORDERED that:

1. The motion of Petitioners to intervene is granted.
2. Each Petitioner shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. Should any Petitioner file documents of any kind with the Commission in the course of these proceedings, said Petitioner shall also serve a copy of said documents on all other parties of record.

Done at Frankfort, Kentucky, this 3rd day of November, 1997.

PUBLIC SERVICE COMMISSION

  
For the Commission

ATTEST:

  
Executive Director

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY CGSA, INC.	)	
FOR ISSUANCE OF A CERTIFICATE OF	)	
PUBLIC CONVENIENCE AND NECESSITY TO	)	
CONSTRUCT AN ADDITIONAL CELL SITE IN	)	
LEXINGTON, KENTUCKY FOR THE PROVISION	)	CASE NO. 97-072
OF DOMESTIC PUBLIC CELLULAR RADIO	)	
TELECOMMUNICATIONS SERVICE TO THE	)	
PUBLIC IN FAYETTE COUNTY, KENTUCKY	)	
AND THE LEXINGTON MSA	)	

O R D E R

The Commission has received the attached letters from James Egalite and the Lexington-Fayette Urban County Government ("LFUCG") and a petition signed by approximately 20 property owners (hereinafter "Petitioners") regarding the proposed cellular telecommunications facility to be located at 3459 Buckhorn Drive, Lexington, Fayette County, Kentucky. For purposes of this Order, the Commission has designated Keith Gill as spokesperson for Petitioners.

IT IS THEREFORE ORDERED that:

1. Kentucky CGSA, Inc. ("Kentucky CGSA") shall respond to Mr. Egalite's, the LFUCG's, and Mr. Gill's concerns by certified letter, within 10 days of the date of this Order.
2. Kentucky CGSA shall file a copy of the certified letter and dated receipt, within 7 days of the date on the receipt.

Done at Frankfort, Kentucky, this 3rd day of November, 1997.

ATTEST:

  
\_\_\_\_\_  
Executive Director

PUBLIC SERVICE COMMISSION

  
\_\_\_\_\_  
For the Commission

10-11-97

Att: Executive Directors Office  
With: Public Service Commission of Ky.

P.O. Box 615

Frankfort, Ky. 40602

Refer to: Case # 97-072

From: JAMES EGALITE 3344 Mt. Foreaker Dr. Lex. Ky. 40515

RECEIVED  
OCT 14 1997  
PUBLIC SERVICE  
COMMISSION

To Whom it may Concern,

In response to the certified letter I received on October 3<sup>rd</sup>, 1997, I am against the proposal to construct and operate the cellular Radio facility and tower close to my property. Without sufficient information about the pros & cons of the project such as, Will the tower interfere with any of my Television, Radio, Phone, ect reception?, Will the property value of my home decrease? Has Towers like this one ever been known to cause cancer?

I do agree that something does need to be done with the abandoned Shopping center building, but I ~~do~~ have to go against this proposal until I receive sufficient information to better make my decision regarding this proposal.

Phone # 245-9728

Sincerely,  
James T. Egalite



## Lexington-Fayette Urban County Government

Department of Housing & Community Development • Division of Planning • Current Planning

October 10, 1997

Don Mills, Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602

**RECEIVED**  
OCT 14 1997  
PUBLIC SERVICE  
COMMISSION

RE: PSC Case Number 97-072 (AMENDED APPLICATION)

Dear Mr. Mills:

The Lexington-Fayette Urban County Government (hereinafter referred to as LFUCG) wishes to state its concerns regarding the above-captioned amended application for a cellular tower and equipment shelter for property located at 3459 Buckhorn Drive. Additional information has been provided to us by Kentucky CGSA, Inc. and an initial review relative to the LFUCG's Cellular Tower site criteria has raised certain issues we wish addressed by the applicant. Further, the notice sent by the applicant to surrounding property owners has resulted in citizen inquiries to the LFUCG. I specifically request that either the PSC or the applicant address the following items as appropriate:

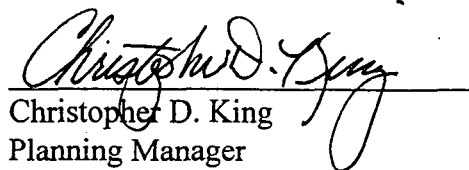
1. It appears that the 100% fall line, and perhaps the 60% fall line, would extend to single family residential property located on Smoky Mountain Drive and/or Mount Foraker Drive; as well as Berryhill Park. Berryhill is a public neighborhood park that contains a public bikeway/walkway adjacent to the lot on which the tower is proposed. The LFUCG wishes that the applicant comment on any potential problems arising from this proximity.
2. The LFUCG wishes to be provided with a map showing the maximum search ring for this proposed facility, so that it may have the ability to comment upon the applicant's contention that "...there is no other suitable location reasonably available..." as an alternative to the proposed site.
3. Addition of a condition by the PSC that the tower be removed if it ever ceases to be used as a cellular transmitting facility.
4. Information as to proposed screening/buffering of the proposed facilities from adjoining properties. The property abuts residential areas.
5. I would also note that this property is subject to a site development plan (copy attached),

and no permits can be issued for any development of this property unless and until an amendment to this development plan has been approved by the Planning Commission.

The LFUCG's Cellular Tower Committee will review any response received in the hope that concerns can be addressed short of requesting intervention. I am also sending a copy of this letter to Sam McNamara, attorney for Lexington MSA Limited Partnership.

The Lexington-Fayette Urban County Government looks forward to a response from the applicant and/or the Public Service Commission on these requests.

Sincerely,

  
Christopher D. King  
Planning Manager

c: Mayor Pam Miller (c/o Charlie Boland)  
Sam G. McNamara, Attorney for Lexington MSA  
Cellular Tower Committee Members:  
Councilmember Fred Brown, Jimmy Campbell, Keith Horn, Terry Tipton,  
& Casey Wilson  
Councilmember Willy Fogle  
Mr. Keith Gill, Smoky Mountain Drive resident

ck/ctowers/ctmill18

Dolson

Keith Gill  
3337 Smoky Mountain Drive  
Lexington, KY 40515  
October 14, 1997

RECEIVED

OCT 17 1997

PUBLIC SERVICE  
COMMISSION

Don Mills, Executive Director  
Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602

RE: PSC Case Number 97-072 (AMENDED APPLICATION)

Dear Mr. Mills:

We, property owners and residents of the area surrounding 3459 Buckhorn Drive, do hereby strongly request to intervene on your plans to construct a cellular radio telecommunication facility. In your correspondence to us, you stated that the site is at the rear of an abandoned shopping center building. Does this make it any better? The abandoned building has been an eyesore for years and we do not appreciate this being an excuse to use the site as a dumping ground. The owner of this property has dragged his feet on cutting grass and general upkeep since he purchased the buildings. Why should he be the beneficiary of your rent payments? The building may be a distance from the main road (Buckhorn), however, it is in our backyards. We have several other concerns in addition to the sheer unsightliness of the proposed facility:

- 1) The fall line extends into single family residential property located on Smoky Mountain and Mount Foraker: as well as Berryhill Park. The park contains a public bikeway/walkway adjacent to the lot on which the tower is proposed.
- 2) There must be another suitable location.
- 3) Even though the property is not "in" a residential area, it is surrounded by one. We see this as an attempt to bend the intentions of the LFUCG's request to keep these towers out of residential neighborhoods.
- 4) It is near a child care center in Buckhorn Plaza.
- 5) They are: generally incompatible with residential areas, obtrusive, out of scale and character, and pose a safety threat.

<u>NAME</u>	<u>ADDRESS</u>
<i>Keith Gill</i>	<i>3337 Smoky Mountain Dr.</i>
<i>Timothy R. Mullin</i>	<i>3333 Smoky Mountain Dr.</i>
<i>Robert &amp; Bill Docherty</i>	<i>3309 Smoky Mtn Dr.</i>
<i>Jeff &amp; Michele Rhinehart</i>	<i>3305 Smoky Mtn Dr.</i>
<i>Robin &amp; Hunter Ayers</i>	<i>3308 Smoky Mtn Dr.</i>

NAMEADDRESS

Natalie Messner	3332 Smoky Mtn. Dr.
Robert C. Utterback	3341 Smoky Mountain Drive
Theresa L. Foley	3344 Smoky MTN. Dr.
John E. Longmire	3345 Smoky MTN DR.
Pam Conert	3349 Smoky Mtn Dr.
Ben Hart	3348 Smoky Mtn Dr.
Deana Hart	3348 Smoky Mtn Dr.
Ann Ann	3349 Smoky MTN DR
Byrd Churchill	3357 Smoky Mtn. Dr.
E. Coye Stille, II	3360 " " "
Shawn Smith	3365 Smokey Mtn Dr.
Don D. Brum	1413 Gatlinburg Ct.
Martha Saylor	1414 Gatlinburg Ct
CHRIS Saylor	" "
Vonda Alamin	1428 Gatlinburg Ct.
Jessica Hayes	1424 Gatlinburg Ct.

\* Due to time constraints, we were only able to visit 23 houses. At least 1 person signed this petition from 21 houses. It seems that the opinion of property owners and residents in this neighborhood is nearly unanimous, we do not want the tower.